



DAC/ #  
1156 JFW

PATENT  
ATTORNEY DOCKET NO. 50125/037001

Certificate of Mailing: Date of Deposit: August 8, 2005

I hereby certify under 37 C.F.R. § 1.8(a) that this correspondence is being deposited with the United States Postal Service as **first class mail** with sufficient postage on the date indicated above and is addressed to Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Colleen Coyne

Printed name of person mailing correspondence

Signature of person mailing correspondence

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: I. Jochmus et al.

Examiner: A. R. Salimi

Serial No.: 09/980,064

Art Unit: 1648

Filed: March 27, 2002

Customer No.: 21559

Title: CYTOTOXIC T-CELL EPITOPES OF THE PAPILLOMAVIRUS  
L1-PROTEIN AND USE THEREOF IN DIAGNOSTICS AND  
THERAPY

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705

In response to the Determination of Patent Term Adjustment under 35 U.S.C. § 154(b) mailed with the Notice of Allowance on July 30, 2004 in connection with the above-captioned patent application, Applicants hereby request reconsideration of the patent term adjustment. Applicants submit that the current patent term adjustment should be 183 days.

The rules governing patent term adjustment due to examination delay are provided for in 37 C.F.R. § 1.702, which states:

08/11/2005 MBELETE2 00000078 09980064

01 FC:1456

400.00 OP

[T]he term of an original patent shall be adjusted if issuance of the patent was delayed due to the failure of the Office to:

\* \* \*

(2) Respond to a reply under 35 U.S.C. 132 ... not later than four months after the date on which the reply was filed.

37 C.F.R. § 1.703 states:

(a) The period of adjustment under 1.702(a) is the sum of the following periods:

\* \* \*

(2) The number of days, if any, in the period beginning on the day after the date that is four months after the date a reply under § 1.111 was filed and ending on the mailing date of either an action under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151, whichever occurs first.

On May 9, 2003 Applicants filed a complete reply to the Restriction Requirement mailed on April 23, 2003. The Office mailed a non-final Office Action on March 12, 2004, resulting in a patent term adjustment of 185 days for the Office's delay, past four months, for responding to Applicants' reply.

With regard to reductions in patent term adjustment, 37 C.F.R. § 1.704(b) states:

[T]he period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning the day after the date that is three months after the mailing or transmission of the Office communication notifying the applicant of the rejection, objection, argument, or other request and ending on the date the reply was filed.

In addition, 37 C.F.R. § 1.703(f) states that the “date indicated on any certificate of mailing or transmission under § 1.8 shall not be taken into account” in calculating the period of patent term adjustment.

During prosecution, Applicants once filed a reply later than three months after the mailing date of an Office communication notifying Applicants of a rejection, objection, argument, or other request. On March 12, 2004, the Office mailed a non-final Office Action. Applicants filed a complete reply to this Action on June 14, 2004, 2 days past three months from the mailing date of the Office Action.

Applicants submit that the 185 days of patent term adjustment due to Office delays should be reduced by 2 days for Applicants’ delays, and not by 234 days as shown in the Patent Term Adjustment History on the PAIR system (Exhibit 1). Applicants note that the period of patent term adjustment was reduced by 232 days for Applicants’ delay in replying to the Restriction Requirement. This reduction appears to be due to the number of days in excess of three months after the April 23, 2003 mailing date of the Restriction Requirement and when a copy of Applicants’ reply was transmitted to the Examiner by facsimile (see Exhibit 1). Applicants note that they mailed a reply to the Restriction Requirement on May 7, 2003 and that this reply was received by the U.S.P.T.O. on May 9, 2003, as indicated by the U.S.P.T.O. stamp on the return postcard included with the reply (Exhibit 2). Thus, the U.S.P.T.O. received Applicants’ reply within three months from the mailing date of the Restriction Requirement. Thus, Applicants submit that the

correct patent term adjustment is 185 days for Office delays reduced by the Applicants' delay of 2 days, which yields a patent term adjustment of 183 days.

In view of the above facts, this application is currently entitled to 183 days of patent term adjustment under 37 C.F.R. § 1.703.

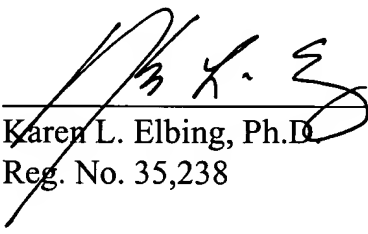
### CONCLUSION

Applicants submit that the current patent term adjustment should be 183 days and request reconsideration of the patent term adjustment.

Enclosed is a check in the amount of \$400.00 for the fee set forth in 37 C.F.R. § 1.18(f). If there are any additional charges or any credits, please apply them to Deposit Account No. 03-2095.

Respectfully submitted,

Date: 08 August 2005

  
\_\_\_\_\_  
Karen L. Elbing, Ph.D.  
Reg. No. 35,238

Clark & Elbing LLP  
101 Federal Street  
Boston, MA 02110  
Telephone: 617-428-0200  
Facsimile: 617-428-7045